



## CLOSED CASE SUMMARY

ISSUED DATE: JULY 16, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0030

### **Allegations of Misconduct & Director's Findings**

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

#### Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

It was alleged that the named employees used unauthorized force against the Complainant.

### **ADMINISTRATIVE NOTE:**

On June 28, 2023, the Office of Inspector General certified OPA's investigation as timely, thorough, and objective.

### **SUMMARY OF INVESTIGATION:**

#### **A. OPA Complaint**

OPA received a Blue Team complaint from Witness Supervisor #1 (WS#1) on behalf of the Complainant. The complaint noted that the Complainant alleged he was arrested because he was Black. WS#1 screened the arrest and told the Complainant that he was arrested because officers had probable cause that he committed a burglary. However, the Complainant disagreed and wanted the matter referred to OPA.

OPA made numerous attempts to contact the Complainant but was unsuccessful.



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## **B. Incident Report**

Named Employee #3 (NE#3)—a detective—wrote the incident report. NE#3 wrote that he responded to a 9-1-1 call involving someone being sprayed with bear mace. A radio update indicated that the offender left the incident location on a public bus. NE#3 wrote that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) located and stopped the bus and found the offender—later identified as the Complainant—inside. NE#3 indicated that he spoke with Community Member #1 (CM#1)—the reported victim—who said the Complainant was yelling and acting erratic earlier that day. CM#1 said he and the Complainant argued, during which the Complainant produced a can of bear mace and sprayed CM#1. CM#1 reportedly grabbed a stick to defend himself. NE#3 noted that CM#1's face and neck were red, his shirt was wet and smelled like pepper spray, and CM#1 complained about a burning sensation.

## **C. Use of Force Statements and Review**

NE#1's use of force statement noted that following the primary investigation, officers controlled the Complainant's wrists and ordered him to sit six times. NE#1 said he grabbed the Complainant's right wrist and left elbow. NE#1 wrote that the Complainant tensed, pulled his arms, and said, "I know I'm in trouble." NE#1 told the Complainant to relax, which he initially did. However, when officers tried to handcuff him, the Complainant again tensed and pulled away. NE#1 held the Complainant's right wrist, and NE#3 had the left. NE#2 controlled the Complainant's head as NE#1 and NE#3 took him to the ground for handcuffing. NE#1 indicated that the Complainant's resistance caused him to scratch his forehead against the pavement, leaving an abrasion near his right eye. On the ground, the Complainant continued stiffening and pulling away. Officers got the Complainant prone, and NE#1 placed his shins against the Complainant's legs. The Complainant yelled for NE#1 to get off his legs. Once the Complainant was handcuffed, NE#1 modified his position.

NE#2 and NE#3's use-of-force statements were consistent with NE#1's statement. Additionally, NE#2 described his head control tactic against the Complainant as a department-trained Thai head clinch, grabbing the back of the Complainant's head with two hands and forcing his head toward NE#2's chest. NE#2 noted that the purpose was to disrupt the Complainant's balance, impeding further resistance.

The named employees' lieutenant and captain reviewed the incident and found their uses of force objectively reasonable, necessary, and proportionate to achieve their lawful interest in arresting the noncompliant and resisting Complainant for a violent offense.

## **D. Body-Worn Video (BWV)**

OPA's BWV review was consistent with the incident report and use-of-force statements. Specifically, BWV captured the Complainant's noncompliance and resistance and NE#3's leg takedown to bring him to the ground.



The Complainant wore a bicycle helmet, which came off during the takedown. The Complainant's forehead appeared to hit the pavement.



#### **E. OPA Interviews**

OPA interviewed the named employees. OPA tried to interview the Complainant, but he was incarcerated and unavailable. He was later released, but there was no contact information in SPD's records management system.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### ***8.200 - Using Force (1) Use of Force: When Authorized***

It was alleged that the named employees used unauthorized force against the Complainant.

"An officer will use only the force objectively reasonable, necessary, and proportional to effectively bring an incident or person under control while protecting the life and safety of all persons. In other words, officers will only use

<sup>1</sup> The arrow points to a stream of blood on the Complainant's forehead.



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objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” SPD Policy 8.200-POL-1.

Here, the officers had probable cause that the Complainant committed a violent felony assault, pepper spraying CM#1. Nevertheless, the Complainant ignored several commands and actively resisted officers’ attempts to handcuff him. NE#1 and NE#3 used de minimis force to take the Complainant to the ground. Although they were on pavement, the takedown was not objectively unreasonable, particularly when the Complainant wore a helmet, and the officers used a team approach to minimize the risk of injury. Further struggles with the Complainant would have likely led to more significant injury to the Complainant or the involved officers. Similarly, NE#2’s head control tactic was objectively reasonable, necessary, and proportionate to the presented resistance and threat. De-escalation tactics failed, so officers used minimal force to secure the Complainant. NE#2 used a trained tactic to achieve a law-enforcement objective.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #2 - Allegation #1**

***8.200 - Using Force (1) Use of Force: When Authorized***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #3 - Allegation #1**

***8.200 - Using Force (1) Use of Force: When Authorized***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**